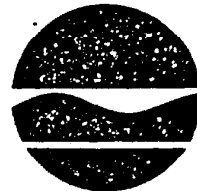


New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233



Robert F. Flacke
Commissioner

DEC 27-05

February 4, 1981

John Hanna, Jr., Esq.
Whiteman, Osterman & Hanna
99 Washington Avenue
Albany, NY 12210

Dear Mr. Hanna:

Re: Coastal Pollution Control Services, Inc./Peabody Clean
Industry, Inc.

This letter is in response to your request for a declaratory ruling in relation to the applicability of Article 27 Title 11 of the ECL and 6 NYCRR Part 360 to the operations of your client, Coastal Pollution Control Services, Inc./Peabody Clean Industry, Inc.

As we understand the pertinent facts, your client leases a site which contains a two-story building including a truck garage. Empty vehicles which have been used in the transportation of hazardous waste are parked in an adjacent lot and repair and maintenance work is done on these vehicles in the truck garage. The site contains several underground tanks, now in disuse. Two empty portable tanks will also be stored at the site.

Based on the above stated facts, neither Article 27 Title 11 nor 6 NYCRR Part 360 are applicable to the facility.

The facility does not constitute an industrial hazardous waste treatment, storage and disposal facility because it does not fall within the statutory definition:

"...a specialized facility or site...for the purpose of treating, storing, compacting, recycling, exchanging or disposing of hazardous waste including treatment, compacting, resource recovery or disposal plants, equipment and furnishing thereof used for storage, treatment, compacting, composting, shredding, covering, utilization, processing, or final disposition of hazardous waste..."

The facility as described serves none of the above functions in relation to industrial hazardous waste management.

John Hanna, Jr.
Page Two
January 21, 1981

The trucks housed at the facility, of course, require waste transporter permits (6 NYCRR Part 364) for their activities associated with the transportation of hazardous wastes. However, since the trucks do not fulfill a storage function as they related to the facility, they cannot be considered, "... equipment and furnishing thereof used for storage (of industrial hazardous waste)..."

Similarly, the facility does not fall within the definition of solid waste management facility as that term is defined in ECL §27-0701. A solid waste management facility is defined in ECL §27-0701 as:

"...any facility employed beyond the initial solid waste collection, process including, but not limited to, transfer stations, baling facilities, rail haul or barge haul facilities, processing systems, including resource recovery facilities or other facilities for reducing solid waste volume, sanitary landfills, plants and facilities for compacting, composting or pyrolization of solid wastes, incinerators and other solid waste disposal, reduction or conversion facilities."

To reiterate, the facility as described serves none of the above functions nor do the trucks housed at the facility, as they relate to the facility, fulfill a storage function.

Based upon the foregoing, we conclude that the provisions of Article 27 Title 11 and of 6 NYCRR Part 360 are inapplicable in this instance.

Yours truly,



Richard A. Persico
Gen. Counsel/Deputy Commissioner

RAP/RHF/tc

cc: N. Nosenchuck
C. Goddard
P. Counterman
R. Feller

bcc: ✓ Thomas Ulasewicz
Larry Vernon